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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 THE CENTER FOR INVESTIGATIVE
REPORTING AND PATRICK MICHELS,

12 Plaintiffs,

13
14 v.

15 U.S. DEPARTMENT OF HOMELAND
SECURITY,

16 Defendant.
17

Case No. 4:18-CV-02711 DMR

**STIPULATION RE SETTLEMENT AND
DISMISSAL OF FOIA CLAIMS WITH
PREJUDICE WITH THE EXCEPTION OF
ATTORNEY'S FEES
[PROPOSED] ORDER
AS MODIFIED**

18 Subject to approval of the Court, and by and through their undersigned counsel, the parties
19 stipulate as follows:

- 20 1. The parties have agreed to resolve the only Freedom of Information Act ("FOIA"), 5 U.S.C §
21 552(a)(4)(B) issue remaining regarding a dispute under FOIA exemption 5. Defendant has
22 agreed to release the disputed records subject to Exemption 5 by no later than October 18,
23 2019. This release is done for the purpose of settling and compromising the only issue
24 remaining in the case – application of FOIA Exemption 5.
25 2. The parties thus stipulate to dismiss all FOIA claims, with exception of the issue of
26 attorney's fees.
27
28

- 1 3. The parties are endeavoring to reach agreement on attorney's fees and propose that they be
2 provided 30 days, until November 8, 2019, to resolve this issue, at which time the parties will
3 either file a stipulation of settlement and dismissal as to attorney's fees, or propose a briefing
4 schedule with respect to plaintiff's fee petition to the Court. Defendant expressly reserves all
5 arguments it may have in response to any such fee petition.
- 6 4. Execution of this Stipulation shall constitute dismissal of the FOIA claims in this case with
7 prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).
- 8 5. The parties hereby request that the court vacate the parties' motion for summary judgment
9 briefing schedule and hearing date of January 23, 2020. (ECF No. 42.)

10 Respectfully submitted,

11 DAVID L. ANDERSON
12 United States Attorney

13 Dated: October 9, 2019

14 By: _____/s/
15 GIOCONDA R. MOLINARI
16 Assistant United States Attorney

17 D. VICTORIA BARANETSKY
18 The Center for Investigative Reporting

19 Dated: October 9, 2019

20 By: _____/s/*
21 D. VICTORIA BARANETSKY
22 The Center for Investigative Reporting
23 Attorney for Plaintiffs

24 **In compliance with Civil Local Rule 5-1(i), the filer of this document attests that all signatories listed
25 have concurred in the filing of this document.*

26 **[PROPOSED] ORDER**

27 PURSUANT TO STIPULATION, IT IS SO ORDERED

28 The parties shall file a status report
within 30 days.

DATED: 10/11/2019

HON. DONNA M. RYU
United States Magistrate Judge

